

FINAL BILL REPORT

ESHB 2072

PARTIAL VETO C 515 L 09

Synopsis as Enacted

Brief Description: Concerning transportation for persons with special transportation needs.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Wallace, Clibborn and Wood).

House Committee on Transportation
Senate Committee on Transportation
Senate Committee on Ways & Means

Background:

Special Needs Transportation, Generally.

There are approximately 623 organizations and agencies in Washington that provide some level of service to persons with special transportation needs. "Persons with special transportation needs" means those persons, including their personal attendants, who, because of physical or mental disability, income status, or age, are unable to transport themselves or to purchase transportation.

While the 2000 federal census data does not provide estimates of residents who are defined as persons with special transportation needs under state law, the data indicates that, of the 6.4 million residents in Washington, 12 percent are older adults (defined as age 65 or older) and 42 percent of those older adults have a disability. The combined population in King, Snohomish, Pierce, and Kitsap counties is approximately 3.4 million. Of that population, approximately one-third to one-half fall within the special needs transportation population: seniors, 12 percent; children, 24 percent; low-income, 9 percent; and persons with disabilities, 22 percent.

Special needs transportation services are provided by many different providers, including: public transportation systems; state-funded human service programs, most notably the Department of Social and Health Services (DSHS); civic and community-based groups; and private for-profit and non-profit entities. Within the state, there are 28 public transportation systems, of which seven serve urbanized areas, eight serve small cities, and 13 serve rural areas.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Agency Council on Coordinated Transportation.

Established in 1998 and chaired by the Secretary of Transportation, or her designee, the Agency Council on Coordinated Transportation (ACCT) is a council of state agencies, transportation providers, consumer advocates, and legislators, which was created to facilitate a statewide approach to coordinated special needs transportation and to develop community-based coordinated transportation systems.

Since enactment, the ACCT has been reauthorized several times. In 2007 the Legislature reauthorized the ACCT until June 30, 2010, and modified and streamlined the ACCT's duties. In 2007 the Legislature also directed the Joint Transportation Committee to study legal and programmatic changes and best practices necessary for providing effective coordination of special needs transportation. That study, finalized in January 2009, resulted in a number of recommendations, including the need to strengthen the ACCT's role as a statewide oversight authority and to establish the necessary infrastructure that responds to local circumstances and needs.

Local Special Needs Coordinating Entities.

Approximately 20 local coordination councils are active, to varying degrees, within the state. Many of these local councils were originally established with financial assistance provided through the ACCT. Some local councils meet regularly and have full-time staff to advance local coordination initiatives, but most do not. Generally speaking, many of these local councils are involved with local transportation planning efforts required under federal law. Funds are no longer available for the councils through the ACCT, and there is no official connection between the local councils and any state transportation program or agency.

Federal Transportation Coordination Requirements.

In 2005 the federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was enacted, which conditions receipt of certain federally funded public transportation grant projects on the establishment of locally developed, coordinated public transportation plans. The SAFETEA-LU guidance issued by the Federal Transportation Administration (FTA) indicates that each plan should identify special transportation needs, prioritize services, and establish comprehensive strategies for meeting special transportation needs. The new federal requirement is addressed in the planning process of regional transportation planning organizations or metropolitan planning organizations.

Federal Special Needs Transportation Programs and Agencies, Generally.

In addition to state and local programs, there are approximately 62 federal programs in eight federal agencies that fund a variety of transportation services to persons who are transportation disadvantaged. Most of these programs have their own purposes and goals, target population, eligibility criteria, rules and regulations, administrative structure, funding process, billing rates, and accounting and reporting requirements. In addition, federal and state agencies maintain separate client databases, and, due to real or perceived federal confidentiality requirements, agencies are not typically willing to share client eligibility information in order to determine the extent to which there might be overlap of services provided or efficiencies that could be achieved.

With respect to seniors and persons with disabilities, the use of public transportation is supported and encouraged by two federal requirements: the discounted fare requirement and the 1990 Americans with Disabilities Act (ADA). Pursuant to the federal discounted fare requirement, public transit operators are required to provide a discount to seniors (defined as age 65 or older) and to persons with disabilities of up to 50 percent of the regular fixed route fare during off-peak hours. Generally speaking, the ADA guarantees equal access to services and programs for persons with disabilities. As a result, most public buses are equipped with lifts or ramps to ensure that public transit is accessible to persons with disabilities.

In addition, the ADA also requires transit agencies to provide complementary paratransit services to individuals who cannot take the fixed route bus due to a functional disability. Paratransit service is a specialized, typically pre-scheduled transportation service provided by taxis, cars, and accessible vans or buses for persons with disabilities. However, gaps in service exist because many public transit agencies' boundaries are less than countywide.

Other paratransit, or "demand response," services are often provided in rural or other non-urbanized areas with limited or no public transit. Such services may be operated by a city, community-based non-profit agency, or a senior center. Demand response services are not required to comply with the ADA paratransit service standards if comparable fixed route services are not available.

Medicaid and Transportation.

Medicaid is a federal entitlement program that funds basic health care services for the elderly, persons with low-income, children, and individuals with disabilities. The federal government mandates that states provide non-emergency medical trips for Medicaid clients that have no other way to access medical facilities and services. In 2005 Washington spent more than \$5 billion for its Medicaid program. The DSHS is the largest provider of social service transportation in the state and provides a variety of services to approximately 2.1 million clients.

Washington, like many other states, administers its own Medicaid program and establishes eligibility standards, payment rates, and benefit packages. Since 1989 Washington has managed its Medicaid transportation through a brokerage system. Services are operated statewide under contracts with eight brokers for the state's 13 non-emergency Medicaid transportation service regions. The transportation brokers typically provide the following primary services: (1) operation of a toll-free telephone service for scheduling interpreter services and non-emergency transportation to medical appointments; (2) evaluation and verification of client eligibility, provided service coverage, and appropriate level of transportation; and (3) contracting for, arranging, and monitoring transportation and interpreter services.

In December 2008 the DSHS applied to the federal Centers for Medicare and Medicaid Services to change its federal-state Medicaid match system from an administrative match system to a medical match system. Under the administrative match system, the federal government provides a 50 percent match rate, and the use of the funds is somewhat flexible. Under the medical match system, the federal match could be increased to as much as 70 percent; however, it appears that the use of these funds may be less flexible and subject to stricter audit and accounting requirements.

Funding for Special Needs Transportation Services.

The largest funders of special needs transportation include: public transit; community transportation providers; student transportation for homeless youth or for those students requiring specialized education programs; and state-funded human service programs.

The 2007-09 state transportation budget appropriated \$25 million for special needs transportation, of which \$5.5 million was provided solely for grants to nonprofit providers and \$19.5 million was provided solely for grants to transit agencies. An additional \$16.9 million was appropriated to the Rural Mobility Grant Program, which supports transit systems serving small cities and rural areas and also providers of service in areas that are either not served or are underserved by transit agencies.

The Washington State Department of Transportation (WSDOT) administers several FTA grant programs. For the 2007-09 biennium, the WSDOT matched state and local funds with FTA funds and administered more than \$21.5 million in federal public transportation grants.

Funding and Program Eligibility and Cost-Sharing Restrictions.

The two largest funders of special needs transportation in the state, Medicaid and public transportation agencies, are each required by federal law to provide transportation services to Medicaid eligible persons and persons with disabilities, respectively. However, eligibility standards for these programs differ for persons entitled to receive the service as well as for the type of service they can receive. Typically, programs sponsoring special needs transportation programs are required to restrict the use of grant funds for a designated population. As a result, this prevents different programs from sharing resources and costs and from jointly funding a coordinated system of transportation services.

Student Transportation.

In Washington over \$300 million per year is spent on transporting students to and from school. In general, school districts receive funding to transport students between home and school if the students live more than one mile from school. If a student is disabled, funding is provided without any restrictions on distance. Additional funding is provided if young students (kindergarten through fifth grade) live within a mile but do not have a safe route to school.

In addition, the federal McKinney-Vento Homeless Education Assistance Act (McKinney-Vento Act) provides that state educational agencies must ensure that each homeless child and youth has equal access to the same public education as other children; furthermore, a homeless student may not be separated from the mainstream school environment. The McKinney-Vento Act ensures that homeless children are transported to and from the child's choice of school, in any school district, regardless of the school district in which the child resides. Federal funding is not specifically provided to states or local school districts for purposes of complying with the McKinney-Vento Act.

Summary:

The role of the Agency Council on Coordinated Transportation (ACCT) is strengthened, and the ACCT is established as a statewide authority. Membership on the ACCT is expanded to

include: four new voting members, increasing total membership from 14 to 18. The new members include a representative of regional transportation planning organizations; transportation brokers who provide nonemergency medically necessary trips to persons with special transportation needs; the state Department of Veterans Affairs; and the Washington State Association of Counties. The ACCT is required to vote annually to elect one of its voting members to serve as chair, and the position of chair must rotate among the voting membership at least every two years. The ACCT is given several new duties and is reauthorized until June 30, 2011.

The ACCT's new duties include:

- proposing statewide policies and objectives to the Legislature;
- establishing performance measures and objectives for evaluating the ACCT's progress in accomplishing its objectives;
- developing common service definitions, and uniform performance and cost-reporting systems;
- designating local coordinating coalitions in two pilot project regions; and
- progressing toward the goal of establishing a single clearinghouse for driver background checks in cooperation with the Department of Social and Health Services (DSHS) and the Washington State Patrol.

Local Coordinating Coalitions and Pilot Projects.

The ACCT is directed to appoint a local coordinated coalition (LCC) in two Medicaid brokerage regions, as defined by the DSHS. Membership on the LCCs includes several agency representatives as well as members of any existing local coordinating coalition. The purpose of an LCC is to advance local efforts to coordinate and maximize efficiencies in special needs transportation programs and services. An LCC serves in an advisory capacity to the ACCT, is staffed by the regional transportation planning organization (RTPO) serving the region, and has several duties. An LCC's duties include:

- identifying local services and transportation needs, including connectivity gaps and other barriers to reliable and efficient transportation within and across service boundaries;
- considering strategies to address local service needs and connectivity gaps;
- collaborating with local service providers and operators to identify and propose common connectivity standards, including, at a minimum, standards that address signage, transit information, schedule coordination, and services provided to address access to and from a transit stop or facility; and
- implementing pilot projects to test and demonstrate cost sharing and cost-saving opportunities.

Special Needs Transportation and Special Needs Funding.

Transit agencies are directed to work collaboratively with the LCCs for the purpose of advancing the coordination of special needs transportation services. Improved accessibility for persons with special transportation needs is added as a criteria for eligible Transportation Benefit District improvement projects. Applicants for paratransit/special needs grants must include an explanation of how the funding will advance coordination of services. In making final paratransit/special needs grants award decisions, the WSDOT must seek input from the ACCT. In awarding other special needs transportation grants, the WSDOT must give priority to projects that result in improved coordination or increased efficiencies.

Student Transportation Expenditures.

By December 31, 2010, the Office of Superintendent of Public Instruction (OSPI) is required to develop a uniform process designed to track additional expenditures related to transporting homeless students, including expenditures required under the federal McKinney-Vento Act. The OSPI must provide information annually to the ACCT on total expenditures related to the transportation of homeless students.

Driver Background Checks.

In cooperation with the DSHS and the Washington State Patrol, the ACCT is directed to make progress toward the goal of establishing a single clearinghouse for driver background checks within the most cost-effective agency.

Work Groups.

A work group, appointed by the ACCT by August 15, 2009, is created for the purpose of engaging relevant federal agencies and representatives in an analysis of the various federal definitions and reporting requirements across federal special needs transportation programs. Membership on the work group includes: representatives of the departments of Transportation, Veterans Affairs, Health, and Social and Health Services; medicaid nonemergency medical transportation brokers; public transit agencies; regional and metropolitan planning organizations; the ACCT; the LCCs; Indian tribes; and the OSPI. The work group members must elect one or more of its members to serve as chair or co-chairs.

A second work group, appointed by the ACCT by August 15, 2009, is created to consider implementation of certain recommendations resulting from the 2009 study of special needs transportation conducted by the Joint Transportation Committee (JTC). The work group, chaired by a member of the ACCT, is specifically directed to consider, in consultation with relevant federal agencies, recommendations related to the procurement and designation of transportation brokers, referred to as community access managers. Membership on the work group includes representatives of the ACCT, regional and metropolitan planning organizations, transit agencies, medicaid nonemergency medical transportation brokers, and the DSHS.

Required Reports.

Periodic reports must be submitted to the JTC describing the progress of the work groups, driver background check clearinghouse pilot projects, and certain new duties assigned to the ACCT. Reports are due by December 1, 2009, June 1, 2010, and December 1, 2010.

Votes on Final Passage:

House	95	0	
Senate	46	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 26, 2009

Partial Veto Summary: The Governor vetoed the following new duties required of the Agency Council on Coordinated Transportation (ACCT):

- proposing statewide policies and objectives to the Legislature;
- establishing performance measures and objectives for evaluating the ACCT's progress in accomplishing its objectives;
- developing common service definitions, and uniform performance and cost-reporting systems; and
- progressing toward the goal of establishing a single clearinghouse for driver background checks in cooperation with the Department of Social and Health Services (DSHS) and the Washington State Patrol.

The Governor vetoed the creation of a work group appointed by the ACCT which would have made recommendations relating to the procurement and designation of transportation brokers, referred to as community access managers.

The Governor vetoed the section containing a null and void clause, which would have made the bill null and void if not referenced in the omnibus transportation appropriations act.